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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,840	07/23/2001	Victor Walters	WALTE-18.US	8807

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EXAMINER
WAKS, JOSEPH

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 05/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/909,840	WALTERS, VICTOR
	Examiner	Art Unit
	Joseph Waks	2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 February 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,6 and 11-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,6 and 11-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4)☐ Interview Summary (PTO-413) Paper No(s). _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1, 2** and **15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rebman (US 1,368,454)** in view of **Bergstein (US 5,947,678)**.

Rebman discloses a turbine apparatus having a floatable body with two hollow side members 1 joint by several cross members 13 providing a flow passage for water there between, rotors 8 having a plurality of blades and rotating on a horizontal shaft 7 having opposite end portions mounted in bearings 6 supported by the side members, power producing means 12 rotatably connected to the rotor. However, **Rebman** does not disclose the rotor including watertight cylinder having an outer circumferential surface dimensioned and positioned to protrude into the flowing water to provide buoyancy and assisting the floatation of the turbine apparatus by the buoyancy of the watertight cylinder.

Bergstein discloses in Figures 4-6 a turbine apparatus 200 having a rotor including watertight cylinder 210 having an outer circumferential surface dimensioned and positioned to protrude into the flowing water, for the purpose of providing buoyancy to the rotor to allow free floating of the rotor on the water surface.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the apparatus as taught by **Rebman** and to furnish the rotor

including watertight cylinder having an outer circumferential surface dimensioned and positioned to protrude into the flowing water to provide buoyancy to the rotor as taught by **Bergstein** for the purpose of reducing the weight of the apparatus while providing sufficient buoyancy to keep the apparatus afloat.

3. **Claims 1, 2, 4, 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gondolf (DE 4026638)** in view of **Bergstein (US 5,947,678)**.

Gondolf discloses a turbine apparatus having a floatable body with two hollow side members 1 joint by several cross members providing a flow passage for water there between, rotors 4 having blades and rotating on a horizontal shaft having opposite end portions mounted in bearings held by the side members, power producing means rotatably connected to the shaft, and the upstream ends of the side members have deflecting surfaces (as can be clearly seen in Figure 3) directing the water into the channel crated by the side members, wherein the power producing means 6 are generators located inside the tubular side members 1. However, **Gondolf** does not disclose the rotor including watertight cylinder having an outer circumferential surface dimensioned and positioned to protrude into the flowing water to provide buoyancy and assisting the floatation of the turbine apparatus by the buoyancy of the watertight cylinder.

Bergstein discloses in Figures 4-6 a turbine apparatus 200 having a rotor including watertight cylinder 210 having an outer circumferential surface dimensioned and positioned to protrude into the flowing water, for the purpose of providing buoyancy to the rotor to allow free floating of the rotor on the water surface.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the apparatus as taught by **Gondolf** and to furnish the rotor

including watertight cylinder having an outer circumferential surface dimensioned and positioned to protrude into the flowing water to provide buoyancy to the rotor as taught by **Bergstein** for the purpose of reducing the weight of the apparatus while providing sufficient buoyancy to keep the apparatus afloat.

4. **Claims 6, 11-14, 16** and **17-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rebman (US 1,368,454)** in view of **Bergstein (US 5,947,678)** and **Lee (US 4,383,797)**.

Rebman discloses a turbine apparatus having a floatable body with two hollow side members 1 joint by several cross members 13 providing a flow passage for water there between, rotors 8 having a plurality of blades and rotating on a horizontal shaft 7 having opposite end portions mounted in bearings 6 supported by the side members, power producing means 12 rotatably connected to the rotor. However, **Rebman** does not disclose the rotor including watertight cylinder having an outer circumferential surface dimensioned and positioned to protrude into the flowing water to provide buoyancy and assisting the floatation of the turbine apparatus by the buoyancy of the watertight cylinder and the at least one rotor having a plurality of hollow and watertight blades.

Bergstein discloses in Figures 4-6 a turbine apparatus 200 having a rotor including watertight cylinder 210 having an outer circumferential surface dimensioned and positioned to protrude into the flowing water, for the purpose of providing buoyancy to the rotor to allow free floating of the rotor on the water surface.

Lee discloses in Figures 6, 12 and 13 a turbine apparatus having a rotor including a plurality of hollow and watertight blades water, for the purpose of providing greater buoyancy to the blades (Re column 4, lines 27-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the apparatus as taught by **Rebman** and to furnish the rotor with the watertight cylinder having an outer circumferential surface dimensioned and positioned to protrude into the flowing water to provide buoyancy to the rotor as taught by **Bergstein** for the purpose of reducing the weight of the apparatus while providing sufficient buoyancy to keep the apparatus afloat.

It would have been further obvious to one having ordinary skill in the art at the time the invention was made to design the combined apparatus and to furnish the rotor with the plurality of hollow and watertight blades as taught by **Lee** for the purpose of adding the buoyancy to the blades, thus reducing the weight of the apparatus while providing sufficient buoyancy to keep the apparatus afloat.

Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 6 and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

JOSEPH WAKS
PRIMARY PATENT EXAMINER
TC-2800

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May 8, 2003